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Filing date: **06/15/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91199702
Party	Defendant KTW ENTERPRISES, LTD
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Submission	Answer
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Signature	/s/ Sarah Z. Cohen
Date	06/15/2011
Attachments	Answer to Opposition.pdf ( 3 pages )(24276 bytes )

In the Matter of trademark application Serial No. 85/057,245  
Filed: May 6, 2011  
For the mark: K2

**Opposer,**

KTW ENTERPRISES, LTD., an Oregon corporation,

**Applicant.**

## ANSWER TO OPPOSITION

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5.

Applicant denies paragraph 5 of the Opposition.

6.

Applicant denies paragraph 6 of the Opposition.

7.

Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Opposition and therefore denies such allegations.

8.

Applicant denies paragraph 7 of the Opposition.

WHEREFORE, Applicant respectfully requests that the registration of the mark K2, as requested by Application Serial No. 85/057,245 be granted and that this opposition be denied.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

##### **(Failure to State a Claim)**

1. The Opposition must fail because it fails to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

##### **(Prior Use)**

1. The Opposition must fail because Applicant began using the Mark K2 in connection with the marketing of incense before Opposer began using the mark Top K2 in connection with the marketing of incense.

2. The Opposition must fail because Applicant's predecessor in interest began using the Mark K2 in connection with the marketing of incense before Opposer began using the mark Top K2 in connection with the marketing of incense.

DATED this 15<sup>th</sup> day of June 2011

THE DUBOFF LAW GROUP, LLC

By: /s/ Sarah Z. Cohen

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### **CERTIFICATE OF FILING**

I hereby certify that this ANSWER TO OPPOSITION to U.S. Trademark Application Serial No. 85/057,245 for the mark K2 is being filed with the Trademark Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office on the below date.

Date: June 15, 2011

Sarah Z. Cohen

### **CERTIFICATE OF SERVICE**

I hereby certify that this ANSWER TO OPPOSITION to U.S. Trademark Application Serial No. 85/057,245 for the mark K2 is being duly served upon the Opposer's Attorney of Record by mailing a copy thereof via the U.S. Postal Service in a sealed envelope as first-class mail with postage thereupon fully prepaid and addressed to:

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Date: June 15, 2011

Amanda C. Purvis